

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOUIS JOSEPH MARION M.
IVES,

Defendant.

NO. CR-71-5211-RHW
CV-07-0303-RHW

**ORDER DISMISSING
DEFENDANT'S MOTION TO
VACATE, SET ASIDE, OR
CORRECT HIS SENTENCE IN
FEDERAL CUSTODY UNDER 28
U.S.C. § 2255**

Before the Court is Defendant's Motion to Vacate, Set Aside, or Correct His Sentence in Federal Custody under 28 U.S.C. § 2255 (Ct. Rec. 455).

On September 12, 2008, the Court entered an Order directing Defendant to show cause why his claims of ineffective assistance of counsel and imprisonment in violation of *Blakely v. Washington*, 542 U.S. 296 (2004) should not be dismissed as barred by the Antiterrorism and Effective Death Penalty Act (AEDPA) 1 year statute of limitation.

In response, Defendant submitted directly to the Court a document, newspaper articles, a book list, and a portion of an article from *The Word Among Us*, which the Court filed in the court record on November 13, 2008.

Defendant has not established that the statute of limitations should be tolled. Thus, Defendant's claims of ineffective assistance of counsel and imprisonment in violation of *Blakely v. Washington*, 542 U.S. 296 (2004) are untimely and must be dismissed

**ORDER DISMISSING DEFENDANT'S MOTION TO VACATE, SET
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28 U.S.C. § 2255~ 1**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Motion to Vacate, Set Aside, or Correct His Sentence in
3 Federal Custody under 28 U.S.C. § 2255 (Ct. Rec. 455) is **DISMISSED**.

4 2. Judgment is entered in favor of Plaintiff and against Defendant.

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter
6 this order and to provide copies to counsel and Defendant.

7 **DATED** this 20th day of November, 2008.

8 *s/ Robert H. Whaley*

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10 **ROBERT H. WHALEY**
Chief United States District Judge

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**ORDER DISMISSING DEFENDANT'S MOTION TO VACATE, SET
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28 U.S.C. § 2255~ 2**